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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 1817/2016

NARESH KUMAR AND ANR Petitioner

Through: Mr.Sanjay Kumar Mishra and
Mr.Sunil Tomar, Advocates.

versus

THE STATE AND ANR Respondent

Through: Mr.Rajesh Mahajan, ASC for State
Mr.Indu Singh Shokeen, Adv. for R-2

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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03.06.2016

1. The present writ petition has been filed by the Petitioner under Articles 226/227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure for quashing of FIR No. 1240/2015, under Sections 448/451/457/380/120B/34 IPC, PS Vijay Vihar, Delhi and consequential proceedings arising therefrom.

2. Brief facts, as mentioned in the petition are that the FIR came into existence on the directions of the Learned MM, Rohini Courts on the complaint of Respondent No.2 under Section 156(3) Cr.P.C. The petitioner No. 1 filed the suit No. 233/2015 for recovery of ₹17,96,612/- against the respondent No.2.

3. It has been stated that due to the intervention of Mediation Centre, Rohini Courts both the parties have arrived at an amicable settlement and

complainant does not wish to pursue the criminal case against the Petitioner any further and want that the said FIR and all proceedings emanating therefrom may be quashed.

4. The petitioner has paid an amount of ₹3,00,000/- by way of DD bearing No. 006363 dated 01.06.2016 in favour of Sunil Sharma/R-2 towards full and final settlement.

5. Respondent No.2/complainant is present in Court today and submits that he has amicably settled the dispute with the Petitioner and is not interested in prosecuting the Petitioner and submits that the said FIR and all proceedings emanating therefrom may be quashed.

6. On behalf of the State, it is submitted that currently the trend emerging is to initiate criminal proceedings to pressurize the other party to make the payment/settle the dispute in order to avoid arrest and prosecution. Thus, the complainant party is able to get the recovery effected without filing any civil suit or paying any court fee and in fact execution takes place on a non-existent decree so some cost must be imposed on the parties for wasting the precious time of the Court and using the State machinery virtually as a recovery agency.

7. Offences punishable under Sections 457/380 IPC are non-compoundable offences. In the decision in the case of ***Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257***, the three Judges Bench of the Supreme Court dealing with the issue of quashing of FIR has observed as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences Under Section 320 of the Code. Inherent

power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding. ”

8. In view of the aforesaid amicable settlement arrived at between the parties, I am of the considered view that no useful purpose would be served by continuing the criminal proceedings against the Petitioners, which will only be an exercise in futile and wastage of precious time of the Court.

9. However, in the facts and circumstances of the case, it is desirable that the Petitioner and respondent must be burdened with cost. Accordingly, the Petitioner and respondent are directed to deposit the cost of Rs 10,000/- each with the 'Home for Leprosy and T.B. Affected Beggars', Tahir Pur, Delhi- 110 093, within four weeks from today and proof thereof shall be placed on record.

10. Accordingly, the petition is allowed and FIR No. 1240/2015, under Sections 448/451/457/380/120B IPC, registered at P.S. Vijay Vihar, Delhi and consequential proceedings arising therefrom are hereby quashed subject to deposit of cost by the Petitioner and the respondent herein.

11. A copy of this order be sent to the Superintendent, Home for Leprosy and T.B. Affected Beggars, Tahir Pur, Delhi-110 093 for information and compliance.

Order *dasti*.

PRATIBHA RANI, J.

JUNE 03, 2016
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